

REMARKS

Reconsideration of the rejections set forth in the Office Action mailed October 25, 2005, is respectfully requested. Claims 46-49 remain pending in this application.

Claim of Priority

Applicants have amended the priority claim to reflect that the current application is a continuation application of 10/213,638 rather than a divisional. A petition under 37 C.F.R. § 1.78(a)(3) for acceptance of claim of priority and a request for corrected filing receipt have also been filed herewith.

35 U.S.C. § 102

Claims 46-49 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Fisher (USP 6,350,244). Applicants respectfully argue that Fisher does not qualify as a prior art reference to the instant application, which claims priority to U.S. Application Serial No. 08/308,097, filed September 16, 1994. In contrast, the earliest priority date that Fisher is entitled to is February 21, 2000. Because the priority application predates Fisher, Fisher is not prior art, and the rejection over Fisher should be withdrawn.

Information Disclosure Statement

Applicants noted that the non-patent literature references listed on the Forms PTO/SB/08A that were returned with the Office Action mailed October 25, 2005, were crossed out and not initialed. Although no explanation was provided for excluding these references, Applicants have

Patent
Attorney Docket: 032,290-112
(formerly END 897DIV2)

provided copies of all of the non-patent references and copies of previously submitted Forms PTO/SB/08A and respectfully requests consideration of these references that were previously submitted.

For all the foregoing reasons, Applicant asserts the claims are in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicant's undersigned representative at (949) 760-9600. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-2862.

Respectfully submitted,
O'MELVENY & MYERS LLP

Dated: January 25, 2006

By: Diane K. Wong
Diane K. Wong
Reg. No. 54,550
Attorneys for Applicants

JCK/DKW/cp

O'Melveny & Myers LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
(949) 760-9600